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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,915

06/13/2005

Michael Mennicken

R.303599-1

5670

2119

7590

11/14/2006

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EXAMINER

FRISTOE JR, JOHN K

ART UNIT

PAPER NUMBER

3753

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/538,915	Applicant(s) MENNICKEN ET AL.	
	Examiner John K. Fristoe Jr.	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-37 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 18-37 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 13 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/13/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 6/13/2005 is acknowledged by the examiner.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 18-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the examiner how "outlet openings are formed upon impact of the magnet armature" since it seems like the openings would close when the armature impacts the core.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 18-37 as far as they are definite, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,918,818 (Takeda). Takeda discloses a magnet valve comprising a magnet core (13), a magnet coil (12) surrounding (the lower portion of the coil and the upper portion of the spring) a closing spring (34), a magnet armature (30), a face end (bottom surface of element 13b), outlet openings (within element 13b near element 34 and adjacent 11a in figure 1), a hydraulic damping chamber (between element 30 and element 13 in figure 1), one face end

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(adjacent element 34 in figure 1), a damping face (lower portions of element 18 and 19) made of a non-magnetic material (col. 3, lines 28-29), wherein the damping chamber (between element 30 and element 13 in figure 1) extends in a radial direction and is annular (figure 3), a second end face (outer portion of damping chamber in figure 1), wherein the damping face (lower face of elements 18 and 19), is at a constant spacing (figure 1), wherein the second end face is at an angle (element 19 in figure 4), a lug like projection (18 in figure 1), wherein the non-magnetic material is a plastic material (col. 3, lines 28-29), wherein the non-magnetic material is attached to the core (figures 1 and 4), a first, second, and third annular face portion (different cross sections of elements 18 and 19 starting from the inner end and ending at the outer end, wherein the damping face (lower face of element 18 and 19) is let into the core (figure 1 and 4), a graduation is formed (angled face of element 19 in figure 4), a lug like projection (point of element 19), an air gap (lower portion of the angled portion of element 19 in figure 4), and wherein the end face opens and closes by narrowing in a radial direction (depends on which reference point, inner point of the valve or outer point of the valve, as to which way the element 19 is inclined).

Regarding the gluing recited in claims 27-29 and the casting recited in claim 30, the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product in the prior art, the claim is unpatentable even though the prior product was made by a different process (see MPEP 2113).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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U.S. Pat. No. 5,944,053 (Kabierschke et al.) disclose a non-magnetic bumper member.

U.S. Pat. No. 6,848,669 (Makino) discloses a non-magnetic damping member.

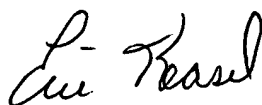
U.S. Pat. No. 6,764,061 (Haeberer et al.) disclose a non-magnetic damping member.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (571) 272-4926.

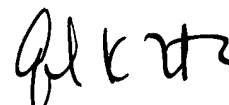
The examiner can normally be reached on Monday-Friday, 7: 00 a.m-4: 30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric S. Keasel can be reached on (571) 272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ERIC KEASEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700



John K. Fristoe Jr.
Examiner
Art Unit 3753

JKF